

### REMARKS

Claims 1-47 are pending in the application. Claims 1-43, and 45-47 have been allowed. Independent claim 44 stands rejected under 35 U.S.C §102(b) as being anticipated by U.S. Patent No. 3,424,332 to Pimentel ("*Pimentel*"), U.S. Patent No. 3,965,287 to Mueller ("*Mueller*") and U.S. Patent No. 3,955,701 to Fisch ("*Fisch*"). Applicants respectfully request reconsideration of these rejections in view of the above amendment and the following remarks. No new matter has been added.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131, *citing*, *Verdegaal Bros. v. Union Oil*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (emphasis added). Further, although identity of terminology is not required, "[t]he elements must be arranged as required by the claim...." MPEP 2131, *citing*, *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566. (Fed Cir. 1990) (emphasis added). As discussed in detail below, *Pimentel*, *Mueller* and *Fisch* fail to meet the requirements laid down by MPEP 2131.

First, none of the cited references disclose a cover plate suitable for use with a weatherproof electrical enclosure as recited in claim 44. As Applicants have explained in their responses to previous office actions, the term "cover plate" relates to plates generally used in the electrical industry for covering electrical fixtures, such as receptacles and switches in order to prevent inadvertent access to the electrically conductive parts of electrical fixtures and to conceal the wiring thereof. See, specification at page 16, line 16-19. Cover plates are also referred to in the electrical industry as "face plates" or "wall plates".

The term "weatherproof electrical enclosure" refers to enclosures for protecting electrical fixtures, such as receptacles and switches, against the effects of the elements (e.g., rain, moisture, and dust). Typically, such enclosures comprise a generally boxed-shaped base that is

sized to receive an electrical fixture, and a cover pivotably attached to the base. See, specification at page 1, line 15-18. When the cover plate of claim 44 is in actual use, the cover plate is positioned inside the base of the enclosure (see, e.g., cover plate 140 in FIG. 1) so as to prevent inadvertent access to the electrically conductive parts of the electrical fixture and to conceal the wiring thereof (*supra.*).

*Pimentel* discloses a detachable cover plate 22 for an electrical outlet box 14. However, unlike the cover plate of claim 44, cover plate 22 of *Pimentel* does not prevent inadvertent access to the electrically conductive parts of outlet box 14 or conceal the wiring thereof and a separate “receptacle concealing plate” must be placed over cover plate 22 for this purpose. See, *Pimentel*, col. 3, lines 1-26; FIGS. 1, 4.

*Mueller* discloses a “mounting plate adapted to mount a transformer on an electrical circuit enclosure.” (*Mueller*, Abstract) See also, *Mueller*, at col. 1, line 50-53 (“The present invention is directed to a unique mounting plate adapted to mount a control transformer in a variety of fashions on an electrical enclosure or junction box.”) and col. 3 line 8 *et seq.* (“In FIG. 3, a mounting means 40 is disclosed...”.) The mounting means 40 does not cover an electrical fixture.

*Fisch* discloses a cover plate 32 for an extension ring 10 of an electrical outlet box 30. However, cover 32 of *Fisch* does not prevent inadvertent access to the electrically conductive parts of the outlet box 30 or conceal the wiring thereof. See, *Fisch* at col. 3, line 1-20 and FIGS. 2 and 3.

Second, claim 44 has been amended to recite that “a top corner of the substrate is cut away to form a first arcuate cut-out section” and that “a bottom corner of the substrate diagonally opposite from the first arcuate cut-out section is cut away to form a second arcuate cut-out section.” As used herein, the term “arcuate” is defined as “bent or curved in the form of

a bow” *Webster’s Third New International Dictionary, Unabridged*. Merriam-Webster, 2002. <http://unabridged.merriam-webster.com> (February 24, 2005) Support for these amendments can be found in the specification at page 16, line 21-23 and page 19, line 23 to page 20, line 2. See, recesses or arcuate cut-out sections 80, 84 in FIGS 13 and 13A-14C. See also, *Vas-Cath, Inc. v. Mahurkar*, 19 U.S.P.Q. 2d 1111, 1118 (Fed. Cir. 1991), *Ex Parte Rohrer*, 20 U.S.P.Q.2d 1460, 1463 (BPAI, 1991) (drawings may provide a written description of an invention).

The “arcuate cut-out sections” make it easier to install, position and remove the cover plate from within the base of an enclosure. See, specification, page 3, line 14-18 and page 20, line 6-8. For example, to install the cover plate into the base of an enclosure, a workman uses his thumb and forefinger to hold the cover plate at the diagonally opposing arcuate cut-out sections and inserts the cover plate into the base. By holding on to the arcuate cut-out sections with his fingertips the workman can move the cover plate within the enclosure to align the mounting holes of the cover plate with corresponding mounting holes in the base. To remove a cover plate from an enclosure, the workman simply removes the screws from the mounting holes, grasps the diagonally opposing arcuate cut-out sections with his thumb and forefinger and pulls the cover plate out. These arcuate cut-out sections are not disclosed in *Pimentel*, *Mueller* or *Fisch*

Instead, *Pimentel* discloses “kerfts or notches 26 and 28”. These kerfts are not disposed on diagonally opposite top and bottom corners but are, instead, disposed along the marginal edges of the cover plate 22 of *Pimentel*. Further, unlike the arcuate cut-out sections recited in claim 44, the function of these kerfts is to allow cover plate 22 to be mounted to an electrical box 14 using screws that go through these kerfts. See, *Pimentel*, col. 3, line 10-18; FIG. 1.

In *Mueller*, what the Examiner describes as an upper recess is actually a mounting hole 41 disposed on the mounting means 40 rather than a top corner. What the Examiner describes as

a lower recess is actually a mounting slot 46 disposed on the edge of one side of the mounting means 40 and not a bottom corner. Unlike the arcuate cut-out sections of claim 44, the mounting slot 46 and mounting hole 41 are used for affixing a transformer 10 that is attached to mounting plate 40 onto a junction box or an electrical enclosure. See, *Mueller* at col 1, lines 50-53, col. 3, line 8-16 and FIG. 5.

In *Fisch*, what the Examiner describes as upper and lower recess are actually slots that are respectively disposed on the edges of a side and the bottom of cover 32 and which project into the cover 32. Unlike the arcuate cut-out sections recited in claim 44, these slots are used for mounting cover 32 to extension ring 10 by the use of screws running through the slots and the holes 16 on the extension ring 10. See, *Fisch*, col. 3, line 8-20; FIGS 2-3.

Finally, claim 44 was further amended to make it clear that the first and second horizontally elongated mounting holes are horizontally disposed on the substrate at points respectively adjacent to an opposite top corner and an opposite bottom corner of the substrate. See, specification at page 19, line 23 to page 20, line 3. See also, mounting holes 82, 86 in FIGS. 13 and 13A-13C. The diagonally opposing arcuate cut-out sections co-act with these mounting holes to make it easier to install and remove the cover plate from an enclosure. This is because the horizontally elongated holes make it easy to align the mounting holes of the cover plate with corresponding holes in the base of the enclosure. These mounting holes are not disclosed in *Pimentel*, *Mueller* or *Fisch*

Instead, *Pimentel* discloses “kerfts or notches” and not horizontally elongated mounting holes. Further, these kerfts are not disposed adjacent to diagonally opposing top and bottom corners but, instead, are circumferentially spaced along the marginal edges of the cover plate 22. See, *Pimentel*, col. 3, line 10-18 and FIG. 1.

*Mueller* also does not disclose horizontally elongated mounting holes that are horizontally disposed on a cover plate. What the Examiner describes as a first mounting hole is actually a mounting hole identical in shape to mounting hole 41. What the Examiner describes as a second mounting hole is actually a mounting slot 47 disposed on the edge of the mounting means 40. See, *Mueller*, col. 3, line 8-16 and FIG. 3.

*Fisch* also does not disclose horizontally elongated mounting holes located adjacent to diagonally opposing top and bottom corners. What the Examiner describes as first and second mounting holes are actually slots 33 that are respectively disposed on the edge of the top and on one side of cover 32 and which project into the cover 32. See, *Fisch* at col. 3, line 8-20 and FIGS 2-3.

Based on the foregoing, *Pimentel*, *Mueller* and *Fisch* do not disclose all of the elements recited in claim 44. Thus, these references fail to meet the requirements laid down by MPEP 2131 and, therefore, none of these references anticipate claim 44.

The Examiner objected to the drawings under 37 CFR 1.83(a) on the ground that “an upper recess and lower recess recited in claim 44 must be shown or the feature(s) canceled from the claim(s).” In response, Applicants direct the Examiner’s attention to elements 80 and 84 of FIGS. 13 and 13A-13C, which respectively show an upper and lower recess or arcuate cut-out section as recited in amended claim 44. See also, Specification at page 19, line 23 to page 20, line 3.

The Examiner also stated that U.S. Patent No. 6,806,425 to O’Neill, U.S. Patent No. 6,576,837 to Pimentel, U.S. Patent No. 4,569,458 to Horsley and U.S. Patent No. 6,608,252 to Hurley disclose a cover similar to Applicants’ claimed invention and could be used for rejection under 35 U.S.C. § 102. For the same reasons discussed above with respect to *Pimentel*, *Mueller* and *Fisch*, these other references fail to disclose all of the elements recited in claim 44 as

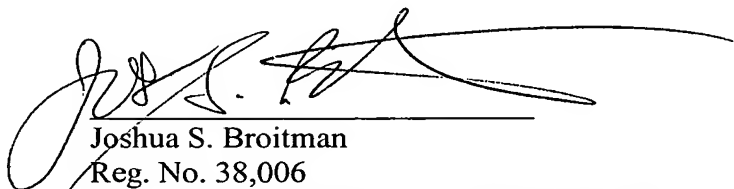
amended and, therefore, do not anticipate claim 44.

For the reasons set forth above, Applicants believe that claim 44 is allowable and request that this case be passed to issue. However, if any issue remains to be resolved, Applicants request that the Examiner telephone the undersigned.

Respectfully submitted,

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Date



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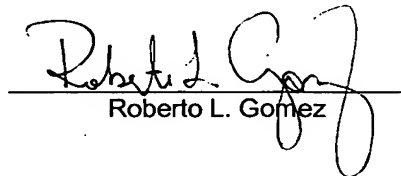
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February 28, 2005

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